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ORACLE AMERICA, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ORACLE AMERICA, INC.

Case No. CV 10-03561 WHA

Plaintiff,

**DECLARATION OF FRED NORTON IN
SUPPORT OF ORACLE AMERICA,
INC.'S OPPOSITION TO GOOGLE'S
DAUBERT MOTION**

v.
GOOGLE INC

Dept.: Courtroom 9, 19th Floor
Judge: Honorable William H. Alsup

Defendant.

1 I, FRED NORTON, declare as follows:

2 1. I am a partner with the law firm of Boies, Schiller & Flexner LLP, attorneys for plaintiff
3 Oracle America, Inc. in the above captioned matter.

4 2. I make this declaration based on my own personal knowledge. If called as a witness, I
5 could and would testify competently as to the matters set forth herein.

6 3. Attached hereto as Exhibit A is a true and correct copy of the April 21, 2009, article titled
7 "In Sun, Oracle Sees a Software Gem," published in the New York Times and downloaded from
8 www.nytimes.com.

9 4. Attached hereto as Exhibit B is a true and correct copy of the July 28, 2010 article titled
10 "Eric Schmidt on Google's Next Tricks" published in the Wall Street Journal and printed from
11 www.wsj.com.

12 5. Attached hereto as Exhibit C is a true and correct copy of a January 31, 2006, e-mail and
13 attachment from Andy Rubin to Timothy Lindholm, Richard Miner, Chris DiBona, and David Lee.
14 The root e-mail, entitled "FYI," bears Bates stamp GOOGLE-14-00042243. The attachment, a
15 presentation titled "Open Handset Alliance," bears Bates stamp GOOGLE-14-00042244-54. Google
16 produced these documents and has designated them HIGHLY CONFIDENTIAL – ATTORNEYS
17 EYES ONLY. **[FILED UNDER SEAL.]**

18 6. Attached hereto as Exhibit D is a true and correct copy of a October 11, 2005 email from
19 Andy Rubin to Larry Page, titled "RE: Sun meeting." and bearing Bates stamp GOOGLE-01-
20 00019527-28. Google produced this document and has designated it HIGHLY CONFIDENTIAL –
21 ATTORNEYS EYES ONLY. **[FILED UNDER SEAL.]**

22 7. Attached hereto as Exhibit E is a true and correct copy of the June 21, 2011 article titled
23 "25 Percent, 50 Percent ... What's In A Number?" by Dr. Christine Siegwarth Meyer and Dr. David
24 Blackburn of NERA Economic Consulting, published by Law360 and printed from www.law360.com.

25 8. Attached hereto as Exhibit F is a true and correct copy of an article by Elizabeth M. Bailey,
26 Gregory K. Leonard, and Mario A. Lopez, titled "Making Sense of 'Apportionment' in Patent
27 Damages," published in the Columbia Science & Technology Law Review on June 2, 2011, and
28 downloaded from www.nera.com.

Earnings Call Transcript, dated October 14, 2010, downloaded from www.morningstar.com.

10. Attached hereto as Exhibit H is a true and correct copy of the August 5, 2010, article titled "Google's Android Is Making Boatloads Of Money, Says Schmidt – Way More Than It Costs To Make," published in Business Insider and downloaded from www.businessinsider.com.

11. Attached hereto as Exhibit I is a true and correct copy of the Google, Inc. Q2 2010 Earnings Call Transcript, dated July 15, 2010, and downloaded from www.morningstar.com.

12. Attached hereto as Exhibit J is a true and correct copy of page 63 from *Economic Approaches To Intellectual Property: Policy, Litigation, and Management* edited by Gregory K. Leonard and Lauren J. Stiroh, copyright 2005 NERA, Inc.

13. Attached hereto as Exhibit K is a true and correct copy of page 92 of the deposition transcript of Andy Rubin, which Google has designated CONFIDENTIAL. [FILED UNDER SEAL.]

14. Attached hereto as Exhibit L is a true and correct copy of the Android Timeline downloaded from <http://www.android.com/timeline.html>.

15. Attached hereto as Exhibit M is a true and correct copy of a June 6, 2007, e-mail thread between Andy Rubin, Steve Horowitz, Jason Parks, and Dan Bornstein, titled “Re: [FWD: MIDP VM on Android.]” and bearing Bates stamp GOOGLE-02-00089698-99. Google produced this document and has designated it HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY. **[FILED UNDER SEAL.]**

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 28, 2011 at Oakland, California.

By: /s/ Fred Norton
Fred Norton

ATTESTATION OF FILER

The signatory to this document is Fred Norton. I, Alanna Rutherford, have obtained Mr. Norton's concurrence to file this document on his behalf.

Dated: June 28, 2011

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Alanna Rutherford
Alanna Rutherford

Attorneys for Plaintiff
ORACLE AMERICA, INC.